

Major 2005 Tax Changes

Effective for taxable years beginning on or after January 1, 2005, estate and trust income includable in the federal gross income of a beneficiary by reason of Internal Revenue Code ("Code") § 652 (the section of the Code that determines the amount and character of the gross income includable by a simple trust beneficiary) or § 662 (the section of the Code that determines the amount and character of the gross income includable by a complex trust beneficiary) is no longer taxable at the estate or trust level; rather, it is to be taken into account in calculating the beneficiary's Massachusetts taxable income under G.L. c. 62, § 2. The amount of estate or trust income to be accounted for by the beneficiary is to be adjusted to account for differences between the calculation of federal taxable income under the Code and the calculation of Massachusetts taxable income under c. 62.

Estate or trust income not includable in the federal gross income of a beneficiary by reason of the above Code sections continues to be taxable at the trust level.

Prior to the enactment of the above law, and in contrast to federal law, the general rule was that if the income of an estate or trust was subject to tax under c. 62, the trustee was required to file a Form 2, *Fiduciary Income Tax Return*, and pay the tax assessed to the estate or trust. Consequently, income distributed to a beneficiary, on which the tax had been paid, was not taxable to him.

Grantor-Type Trusts, Pooled Income Funds, Charitable Remainder Annuity Trusts and Charitable Remainder Unitrusts

The taxation of grantor-type trusts, pooled income funds, charitable remainder annuity trusts, and charitable remainder unitrusts has not been affected by the above law change. These entities continue to be taxed as they have been taxed in the past.

Deduction Available for Amounts Included in Beneficiary's Taxable Income

To avoid double taxation, a trustee or other fiduciary receiving income included in the gross income of a beneficiary by reason of Code §§ 652 or 662 is allowed a deduction on Form 2 in computing the taxable income of the estate or trust for that portion of Part A, B, or C income attributable to such beneficiary. The amount of the deduction is to be adjusted to account for differences between the calculation of federal taxable income under the Code and the calculation of Massachusetts taxable income under c. 62.

Schedule 2K-1, *Beneficiary's Massachusetts Information*, Must be Filed by Trustee With Form 2

A trustee or other fiduciary receiving income taxable to a beneficiary must file with Form 2 a Schedule 2K-1, *Beneficiary's Massachusetts Information*, and include thereon the items of income attributable to the beneficiary.

One Year Requirement to Withhold Tax on Behalf of Beneficiaries

A trustee or other fiduciary making payments of income taxable to a beneficiary is required to withhold and deduct a Massachusetts income tax on these payments at the rate or rates applicable under the provisions of c. 62 to the class or classes of income paid. This requirement applies only to taxable years beginning on or after January 1, 2005 and before January 1, 2006, however. The amount withheld and deducted as tax is to be reported and paid on Form 1-ES, *Estimated Tax Payment*. Such amount cannot be used to reduce the amount of income taxable to the beneficiary; rather, it is allowed as a credit on his return of income against the amount of income tax computed thereon.

In taxable years beginning on or after January 1, 2006, every beneficiary receiving income taxable to him, will be liable for making his own estimated tax payments, as applicable, on Form 1-ES.

Excess Beneficiary and No Tax Status Exemptions No Longer Available

Effective for taxable years beginning on or after January 1, 2005, §§ 12 and 12A of G.L. c. 62 have been repealed. Section 12 allowed a trustee or other fiduciary to claim, on behalf of a beneficiary, the no-tax status exemption provided by G.L. c. 62, § 5(a) on Form 2. Similarly, § 12A allowed a claim to be made on Form 2 on behalf of a beneficiary for any personal exemptions to which the beneficiary was entitled under G.L. c. 62, § 3(B)(b) that the beneficiary did not use on his return of income.

Unused Capital Losses

Unused capital losses of an estate or trust are allocable to the estate's or trust's corpus and can be used by the estate or trust itself in future years. These losses cannot be passed through to beneficiaries, even in the year of termination.

Cases Where Estate or Trust Income Continues to be Taxable at Trust Level

The above changes notwithstanding, certain estates and trusts continue to be taxable at the estate or trust level. For example, where income of an estate or trust subject to the taxing jurisdiction of Massachusetts is being accumulated for a Massachusetts beneficiary, unborn persons, unascertained persons, or persons with uncertain interests, such income is taxable to the estate or trust. "Unascertained persons" and "uncertain interests" are defined in the *Definitions* section below.

Privacy Act Notice

Under the authority of 42 U.S.C. § 405(c)(2)(C)(i), and G.L. c. 62C, § 5, the Department of Revenue ("Department") has the right to require a taxpayer to furnish his employer identification number and/or social security number, as the case may be, on a state tax return. This information is mandatory. The Department uses these numbers for taxpayer identification, to assist in processing and keeping track of returns, and in determining and collecting the proper amount of tax due. Under G.L. c. 62C, § 40, the taxpayer's identifying number is required to process a refund of overpaid taxes. Although tax return information is generally confidential pursuant to G.L. c. 62C, § 21, the Department may disclose return information to other taxing authorities and those entities specified in G.L. c. 62C, §§ 21, 22, or 23, and as otherwise authorized by law.

Common Form 2 Mistakes

An incomplete or incorrect return can delay processing of your return. Below are tips to help us process your return as quickly as possible.

Incorrect Computation. Many returns must be corrected by the Department each year due to simple errors in computation. Before mailing your return, check your arithmetic to make sure the computations are correct.

Filing Status. Be sure to select the correct oval for filing status. This requirement is frequently overlooked.

Missing Withholding Statement(s). Make certain the state copy of all Forms W-2 (Wages), W-2G (Winnings), and 1099-G, or 1099-R that show Massachusetts income tax withheld are enclosed. These forms are frequently missing and must be obtained from you later.

Missing Supporting Schedules. Make sure you have enclosed all required schedules and forms to support the information on your Form 2. These include Massachusetts Schedules B, B/R, D, E, F, H, IDD, and 2K-1, and Form 2G.

Missing Signatures. Thousands of unsigned returns are received by the Department every year. These returns must be returned to taxpayers for signatures.

Definitions

Complex Trust. Any trust that, for any given taxable year, does not qualify as a "simple trust," as defined below. Complex trusts are governed by §§ 661 and 662 of the Code.

Grantor Trust. Under G.L. c. 62, § 10(e), if the grantor or another person is treated as the owner of any portion of a trust by reason of the provisions of §§ 671 to 678, inclusive, of the Code, the trust is a grantor

trust and its income is taxable to the grantor or such other person, not to the trust. The fiduciary of a grantor trust is required to file with the Department an informational return, Form 2G, and send a copy to the grantor/owner, who is required to report the income, deductions, and credits thereon on his Massachusetts individual income tax return.

Massachusetts Source Income. Income derived from or effectively connected with: (1) any trade or business, including any employment carried on by the taxpayer in the Commonwealth, regardless of where or when the income is received; (2) the participation in any lottery or wagering transaction within the Commonwealth; or (3) the ownership of any interest in real or tangible personal property located in the Commonwealth.

Nonresident Estate. An estate of a deceased non-Massachusetts resident. A nonresident estate is subject to the taxing jurisdiction of Massachusetts to the extent it earns Massachusetts source income. In other words, the income of a nonresident estate is taxable to the extent it would be taxable to a nonresident individual.

Nonresident Trust. A trust that earns Massachusetts source income and that is (1) a trust under the will of a decedent who was a non-Massachusetts resident at death, (2) a trust all of whose trustees are nonresidents, or (3) a trust all of whose grantors are nonresidents at the time of the creation of the trust or at any time during the year for which the income is computed. These conditions must be met in order to subject the trust to the taxing jurisdiction of Massachusetts.

Resident Estate. An estate of a deceased Massachusetts resident.

Resident Trust. A "resident trust" may be one of two types. It may be a "testamentary trust" – a trust under the will of an individual who died a Massachusetts resident. Alternatively, it may be an "inter vivos trust" – a trust created during the life of the grantor. To subject an inter vivos trust to the taxing jurisdiction of Massachusetts, the following conditions must exist: the trustee or other fiduciary, or at least one of them, is a Massachusetts resident, and (1) the grantor, or at least one of them, was a Massachusetts resident when the trust was created; or (2) the grantor, or at least one of them, resided in Massachusetts during any part of the year for which the income is computed; or (3) the grantor or at least one of them, died a Massachusetts resident.

Simple Trust. A trust that is required to distribute all of its income currently, may not make distributions of principal, and does not provide for charitable contributions. Simple trusts are governed by §§ 651 and 652 of the Code.

Unascertained Persons. A class of persons who cannot be identified with certainty until the happening of a specified event. The term also applies to those of a class who fulfill some special qualification.

It is the trust termination provisions that determine whether a remainder interest is ascertained or not. For example, if the termination provisions read – "income to X for life, remainder to Y, if living, or, if not, to Y's estate" - the remainder interest is vested in Y and is not unascertained. However, if they read – "to X for life, remainder to Y, if living, or, if not, to Y's issue then living" - the remainder interest is not vested in Y or Y's issue and is unascertained because it cannot be known for certain who will take the remainder interest until X's death. In the latter case, gains realized by the trust will be deemed to be income accumulated for the benefit of unascertained persons and taxable in full to the trust.

Uncertain Interest. A type of future interest such as a contingent remainder or a vested remainder subject to being cut off upon the happening of a contingency. In determining whether a person has an "uncertain interest," a remainder interest in a trust that is vested and not subject to being divested by the happening of any contingency expressly mentioned in the trust instrument is not classified as an uncertain interest. Any other type of future interest is an uncertain interest.

Once Massachusetts Jurisdiction is Established, to Whom is the Income Taxable?

Resident Estate or Trust. When income of a resident estate or trust subject to the taxing jurisdiction of Massachusetts is being accumulated for a Massachusetts beneficiary(ies), unborn persons, unascertained persons, or persons with uncertain interests, such income is taxable to the estate or trust. Otherwise,

income from such resident estate or trust includable in the federal gross income of a beneficiary(ies) by reason of Code §§ 652 and 662 is taxable to the beneficiary(ies).

Nonresident Estate or Trust. When Massachusetts source income of a nonresident estate or trust is being accumulated, such income is taxable to the estate or trust regardless of whether it is being accumulated for a Massachusetts beneficiary(ies), non-Massachusetts beneficiary(ies), unborn persons, unascertained persons, or persons with uncertain interests. Massachusetts source income of a nonresident estate or trust includable in the federal gross income of a Massachusetts or non-Massachusetts beneficiary(ies) by reason of Code §§ 652 and 662, however, is taxable in Massachusetts to the beneficiary(ies). All other income of a nonresident estate or trust, i.e., all non-Massachusetts source income, is taxable to a Massachusetts beneficiary(ies) if he receives it.

Who Must File a Massachusetts Fiduciary Return?

Every executor, administrator, trustee, guardian, conservator, trustee in a noncorporate bankruptcy or receiver of a trust or estate that received income in excess of \$100 that is taxable under c. 62 at the entity level or to a beneficiary(ies) and that is subject to Massachusetts jurisdiction must file a Form 2.

What Other Forms Must Be Filed?

Note: All applicable U.S. schedules, forms and enclosures must be filed with Form 2. A copy of U.S. Schedule K-1 must be enclosed in all cases where a deduction is taken for the payment of income to a nonresident. The Department has developed an extensive information exchange program that includes the following returns:

- ☐ Form 1, Resident Income Tax Return;
- ☐ Form 1-NR/PY, Nonresident/Part-Year Resident Tax Return;
- ☐ Form M-1310, Statement of Claimant to Refund Due on Behalf of Deceased Taxpayer;
- ☐ Form 2, Fiduciary Income Tax Return; and
- ☐ Form M-706, Estate Tax Return.

Discrepancies and nonfilings, except those allowed under Massachusetts law, will be identified and may result in an audit or further investigation.

When is Form 2 Due?

Form 2 is due on or before April 15, 2005. If permission has been granted to file on a fiscal year basis, the return is due on or before the 15th day of the fourth month after the close of the fiscal year. Prior consent must be requested in order to file a return on a fiscal year basis. An application can be made on Form 13. Fiduciaries failing to obtain prior consent will be placed on a calendar year basis.

What Should I Do If I Make a Mistake or Leave Something Off My Return?

If after filing Form 2 you receive an additional tax statement, such as a W-2 or 1099, or discover that an error was made, submit a second tax return containing the correct information. Clearly mark the new return "Amended" across the top and select the amended return oval. If the change reduces the tax liability, enclose Form CA-6, *Application for Abatement/Amended Return*, and a copy of the return that you originally filed. Form 2 or Form CA-6 is available at any Department of Revenue location, or you may have one mailed to you by calling (617) 887-MDOR.

What If I Am Unable to Pay?

If you are unable to pay the full amount of tax that you owe, you should pay as much of your tax liability as possible with your return. You will receive a bill from the Department for the remaining amount of tax due plus accrued interest and penalty charges. If the amount of the bill is less than \$5,000 and you still cannot pay it in full, you must apply formally to the Department for a small payment agreement in order to avoid collection activity. Setting up a small payment agreement will allow you to make monthly payments over a set period to meet your unpaid liability.

How Do I Request An Extension?

To receive an extension of time to file, you must file an *Application for Extension of Time to File Massachusetts Fiduciary, Partnership or Corporate Trust Return*, Form M-8736, and pay the amount of tax you expect to owe on or before the due date for filing your Massachusetts income tax return. The filing and approval of this form will extend the due date for six months. Interest is charged on any tax not paid by the original due date. If you are applying for an extension and do not expect to owe any tax or you choose to pay by Electronic Funds Withdrawal, you may file your application for extension by touch-tone telephone (see Form M-8736 instructions for more information).

Note: Your extension will not be valid if you fail to pay 80% of your total tax liability through withholding, estimated tax payments, or with your Massachusetts Form M-8736. Form M-8736 is available at www.mass.gov/dor or by calling (617) 887-MDOR.

Are Charitable Trusts/Private Foundations Tax Exempt?

Funds held in trust for public charitable purposes are exempt from tax under G.L. c. 62, § 3, if such income is currently payable to, or irrevocably set aside for, public charitable purposes. Every trustee who receives income that, but for § 3, would be taxable is required to file a return for such income on Form 2. The return must be accompanied by a copy of the most recently filed applicable federal return.

What Deductions and Exemptions Are Allowable on the Guardianship/ Conservatorship Form 2?

Every deduction and exemption that an individual is entitled to take on Form 1 may be claimed by a guardian or conservator on behalf of a ward on Form 2. Supporting documentation must be enclosed, including all applicable schedules from U.S. Form 1040, e.g., Schedule A, *Itemized Deductions*, if claiming the medical expense exemption.

Generally, deductions may be used only against 5.3% income. See Schedule C-2 for the limited circumstances under which deductions may be applied against interest (other than interest from Massachusetts banks), dividends, and capital gain income.

Any deduction or exemption claimed must be entered first on Form 2, line 10, and then on line 17, line 26, and line 34, as appropriate; lines typically used by an estate or trust to claim an income distribution deduction. Such deduction is not allowable to a guardianship or conservatorship, however, thus, these lines are available to a guardian or conservator for claiming deductions and exemptions on behalf of a ward.

Any deduction or exemption claimed must be explained via a supporting statement attached to the Form 2. The preprinted language on lines 10, 17, 26, and 34 should be crossed out and the words "see supporting statement" should be added.

Should I Be Making Estimated Tax Payments?

Entity Level Estimated Tax Payments. Generally, every fiduciary receiving income taxable at the entity level must make estimated tax payments on Massachusetts Form 2-ES, *Massachusetts Estimated Income Tax for Filers of Forms 2, 3F and 3M*, if the entity expects to owe more than \$400 in taxes for the taxable year. Estimated tax payments made by a fiduciary on behalf of a beneficiary of a pooled income fund, charitable remainder annuity trust, charitable remainder unitrust, or on behalf of a non-resident grantor of a grantor-type trust must also be made on Form 2-ES.

As of January 1, 2005, fiduciaries filing Form 2 with total net taxable income of \$50,000 or more must make all estimated tax payments by electronic means. Fiduciaries with income less than the above cited threshold may make payments electronically as well, but are not required to.

Generally, the first payment voucher must be filed on or before April 15 of the taxable year. The estimated tax may be paid in full with the first payment voucher or in four installments on or before April 15, June 15, September 15 of the taxable year, and January 15 of the following year.

Fiscal year taxpayers must file their first payment voucher on or before the 15th day of the fourth month of the fiscal year. The estimated tax may be paid in full with the first payment voucher or in four equal installments on or before the 15th day of the fourth, sixth, and ninth months of the fiscal year, and the 15th day of the next fiscal year. Be sure to use the appropriate voucher for each payment and fill in the tax year and date. Whenever a due date falls on a Saturday, Sunday, or legal holiday, the filing and payment may be made on the next succeeding business day. Fiduciaries who underpay or fail to pay their estimated taxes may incur a penalty. Form M-2210F, *Underpayment of Massachusetts Estimated Income Tax for Fiduciaries*, is used to compute the additional charge.

Payments of Estimated Taxes by Beneficiaries. For taxable years beginning on or after January 1, 2006, a resident beneficiary subject to tax at the beneficiary level pursuant to G.L. c. 62, § 10 (h) and a nonresident beneficiary subject to tax at the beneficiary level pursuant to G.L. c. 62, §§ 5A and 10 (h) must make estimated tax payments on his distributable share of the estate or trust income. Such payments are to be made on Massachusetts Form 1-ES.

Filling out the Return – Line by Line Instructions

Note: Line items without specific instructions are considered to be self-explanatory.

Name of Estate or Trust. Enter the exact legal name of the entity. If an estate or trust, refer to the governing instrument. Other fiduciaries should use the exact legal name as their appointing court ruled.

Estate or Trust Employer Identification Number. Enter the U.S. employer identification number. If you do not have one, U.S. Form SS-4, *Application for Employer Identification Number*, should be used to apply for one. If the number is not available at the time of filing, enter “applied for” and the date you applied in the boxes provided. Do **not** use a decedent’s social security number for an estate. A separate Employer Identification Number is required for the estate and for each trust entity.

Name and Title of Fiduciary. Enter the exact legal name and title of the fiduciary. In case of multiple fiduciaries, one name is sufficient.

Mailing Address of Fiduciary. Enter the mailing address of the fiduciary listed on the first line.

C/O. If the mailing address is the address of a legal firm or of a person other than the fiduciary, that person or firm should be listed on the C/O line.

Company Account Number. If applicable, enter the company account number your firm has assigned to this entity.

Date Entity Created. Enter the date the trust was created. If filing a return for an estate, enter the date of death. All other fiduciaries should enter the date of appointment.

Filing Status

Select all applicable ovals. For example, if you are filing a first year return for an estate, select the ovals for “Decedent’s Estate” and “Initial Return.” If filing an amended return, select the oval for “Increase in tax,” “No change in tax,” or “Decrease in tax,” as applicable and write “Amended” across the top of the return. Grantor-type trusts should file Form 2G and select the “Consolidated Form 2G” oval if also filing Form 2. If filing on a fiscal year basis, enter your fiscal year’s beginning and ending dates in the appropriate boxes at the top of the return.

If you have elected to file as a Qualified Funeral Trust (QFT) on U.S. Form 1041-QFT, select the oval for “Qualified Funeral Trust.” If you file a composite Form 1041-QFT, you may also file a composite Form 2. Select the oval for “Qualified Funeral Trust” and write “Composite QFT” across the top of the return. You must enclose a schedule with a Composite QFT Form 2 that includes the following information for each QFT (or separate interest treated as a separate QFT): (1) the name of the owner or the beneficiary (if you list the name of the owner and that trust has more than one beneficiary, you must separate the trust into shares held by the separate beneficiaries); (2) the type and gross amount of each type of income earned by the QFT for the tax year (for long-term capital gains, identify separately the amount of capital gain by holding period); (3) the type of each deduction allocable to the QFT; (4) the tax and payments made for each QFT; and (5) if the QFT was terminated during the year, give the date of termination.

Part B Income

Line 1. Wages, Salaries, Tips, Other Employee Compensation

Enter wages, salaries, tips, and other compensation earned and received, and, if applicable, enter the amount reported as Massachusetts wages on Form W-2. For a decedent's estate, income in respect of a decedent is taxed on Form 2, line 1, in addition to being taxed on the Form M-706, *Massachusetts Estate Tax Return*, as an asset of the estate. "Income in respect of a decedent" is income the decedent had a right to receive prior to his date of death, but payment of which was made to the estate after the date of death. Wages, salaries, or other forms of compensation, including any fixed sum amount attributable to services rendered prior to the decedent's death, are to be included on line 1.

Line 2. Taxable Pensions and Annuities

Income from most private pension or annuity plans is taxable in Massachusetts; however, income from a contributory annuity, pension, endowment or retirement fund of the U.S. government, the Commonwealth of Massachusetts or its political subdivisions, or any noncontributory pension or survivorship benefits from the United States uniformed services (Army, Navy, Marine Corps, Air Force, Coast Guard, commissioned corps of the U.S. Public Health Service and National Oceanic and Atmospheric Administration) is exempt. Massachusetts allows a deduction for contributory pension income received from another state or one of its political subdivisions that does not tax such income from Massachusetts or its political subdivisions. For guidelines on determining which state pensions are exempt in Massachusetts, see TIR 95-9. Enter the fully taxable amounts received from pension or annuity plans on line 2. Amounts distributed from an IRA or Keogh plan should also be reported on line 2.

Line 3. Business/Profession or Farm Income or Loss

Enter on line 3 the amount of income or loss from a business or profession from Massachusetts Schedule C, line 31. Also, enclose Massachusetts Schedule C with this return. Alternatively, enclose a copy of U.S. Schedule C or C-EZ as a substitute.

Note: U.S. Schedule C or C-EZ may be substituted for the Massachusetts Schedule C if there are no differences between the amounts reported on U.S. Schedule C or C-EZ and amounts that would be reported on Massachusetts Schedule C. Be sure to write "No Massachusetts Differences" on the top of the U.S. Schedule C or C-EZ.

For entities engaged in operating a farm business, enter on line 3 the amount of income or loss from operating such business from U.S. Schedule F, line 36. Enclose a copy of U.S. Schedule F. Additionally, complete and enclose a pro-forma U.S. Schedule F to report Massachusetts differences, if any, such as bonus depreciation.

Line 4. Rental, Royalty and REMIC Income or Loss

Rental, Royalty, and Real Estate Mortgage Investment Conduit (REMIC) residual income are generally taxable in Massachusetts. Enter the amount from Massachusetts Schedule E, line 5. Enclose Massachusetts Schedule E. Enter and explain any differences between total rental, royalty, and REMIC income on the U.S. Schedule E and the Massachusetts Schedule E. Possible differences include part-year residency, trust provisions, deductible royalties from approved U.S. energy conservation plants, passive losses, and "bonus" depreciation. See the Massachusetts Schedule E instructions for further details of possible differences in reporting rental, royalty, and REMIC income or loss.

Line 5. Interest from Massachusetts Banks

Enter in line 5 the total amount of interest received or credited to deposit accounts (term and time deposits, including certificates of deposit, savings accounts, savings shares, and NOW accounts) in all savings banks, cooperative banks, savings and loan associations, or credit unions located in Massachusetts. All other interest, unless exempt, should be entered on Schedule B, line 1.

Line 6. Other 5.3% Income

Other 5.3% income not reported elsewhere must be included here. Items reported here include: partnership and S corporation income or loss; gambling winnings from lotteries, raffles, races or other events of chance, wherever held; fair market value of prizes and awards; lump-sum distributions from qualified employee benefit plans in excess of employee's contributions; and any other miscellaneous income.

Income received by a Massachusetts trust or estate from sources not previously subject to Massachusetts jurisdiction or taxed in Massachusetts is reportable on the Form 2 as follows. Sources not previously subject to Massachusetts taxation include non-Massachusetts estates, trusts, and partnerships, wherever located. Enter the income or loss from these entities on the appropriate lines on Form 2 and Schedule D, according to the character and source of income. If no other line applies, enter the income or loss from these entities on line 6 of Form 2.

Line 8. Deductions Allowed Decedents

The amount of any deduction attributable to a decedent that is not properly allowable to the decedent as a deduction on the income tax return for the taxable period in which his death occurs, or any prior period, shall be specifically allowed as a deduction on this line, provided the estate of the decedent is liable to discharge the obligation for which the deduction relates.

The following deductions are allowed if attributable to the decedent and paid after the decedent's date of death (enclose a copy of Form 1 or 1-NR/PY):

1. Amounts paid into Social Security (FICA), Railroad, U.S. or Massachusetts Retirement Systems are deductible up to a maximum of \$2,000. Payments to an IRA, Keogh, Simplified Employee Pension Plan (SEP), or Simple Account are not deductible.
2. Amounts paid to someone to care for one (or more) qualified child under age 13, or for a disabled dependent(s), or spouse so that the decedent could work or look for work, are deductible as an employment-related expense up to a maximum of \$4,800 if there is one qualifying individual or \$9,600 if there are two or more qualifying individuals.
3. A deduction of \$3,600 for one or \$7,200 for two dependent members of the decedent's household under age 12, or dependent age 65 or over (not the decedent or his spouse), or disabled dependent at the close of the taxable year in which the decedent's death falls. This deduction may only be claimed as long as the employment-related expense deduction discussed above is not claimed.
4. Amounts paid for rent for the decedent's principal residence are deductible equal to 50% of the rent paid during the taxable year, up to a maximum of \$3,000. Enclose a supplemental statement listing the landlord's name(s) and address(es), dates rented, and amount(s) of rent paid for each residence.
5. The deduction for unreimbursed travel and transportation expenses incurred by any employee and unreimbursed gifts, entertainment, and other employee business expenses incurred by employees who solicit business for an employer away from the employer's place of business are allowed, but only if the decedent itemizes deductions on his U.S. income tax return and only for amounts that exceed 2% of U.S. adjusted gross income. The amount an employee is reimbursed for business expenses continues to be an allowable deduction.
6. A penalty charge for early withdrawal of savings and interest is deductible but only if the interest that the penalty is related to is reported on Form 2.
7. Amounts paid to a former spouse for alimony or separate maintenance pursuant to a court decree are deductible as long as the amounts are paid in the taxable year in which the decedent's death falls.
8. In addition, certain federal deductions are allowed including: interest payments due and paid on qualified student loans; qualified moving expenses paid or incurred with the commencement of work at a new principal place of work; business expenses of state and local government employees who are compensated on a fee basis; jury duty pay surrendered by the decedent to his employer; and contributions to a Medical Savings Account by the decedent as an employee of a small business or as a self-employed individual.

Line 10. Income Distribution Deduction

Enter on line 10 the amount reported on line 5 of Schedule IDD, *Income Distribution Deduction*.

Guardianships/Conservatorships: Enter on line 10 deductions and exemptions claimed on behalf of a ward. Any deduction or exemption claimed must be explained via a supporting statement attached to the Form 2. The preprinted language on line 10 should be crossed out and the words "see supporting statement" should be added.

Line 12. Nonresident/Charitable Deduction

With one exception, the deductions under G.L. c. 62, § 3.B(a)(1) and (2) for Part B 5.3% income accumulated or irrevocably set aside for vested nonresident beneficiaries and or charities are allowed on Line 12. Massachusetts source income accumulated for vested nonresident beneficiaries is not deductible on Line 12 however, but is taxable at the fiduciary level.

Please note: amounts actually paid to vested nonresident beneficiaries and or charities are not reportable on Line 12. Rather, they are to be included as part of the income distribution deduction calculation and are thus reportable, as appropriate, on lines 2 through 5 of Schedule IDD, Part 1.

Enter on Line 12 the amount of Part B 5.3% income included in Line 11 accumulated or irrevocably set aside for vested nonresident beneficiaries and or charities. Do not include on Line 12 any Massachusetts source income accumulated for vested nonresident beneficiaries or any amounts actually paid to vested nonresident beneficiaries and or charities.

Line 14. Part A 5.3% Interest & Dividend Income

Enter amount from Schedule B, line 39. See Schedule B instructions for detailed information. Complete and enclose Schedule B.

Line 15. Part A 5.3% Common Trust Fund Interest & Dividend Income

Enter the amount of Part A 5.3% interest and dividend income received from common trust funds.

Line 17. Income Distribution Deduction

Enter on line 17 the amount reported on line 10 of Schedule IDD, *Income Distribution Deduction*.

Guardianships/Conservatorships: Enter on line 17 deductions and exemptions claimed on behalf of a ward. Any deduction or exemption claimed must be explained via a supporting statement attached to the Form 2. The preprinted language on line 17 should be crossed out and the words "see supporting statement" should be added.

Line 19. Nonresident/Charitable Deduction

With one exception, the deductions under G.L. c. 62, § 3.A(a)(1) and (2) for Part A 5.3% income accumulated or irrevocably set aside for vested nonresident beneficiaries and or charities are allowed on Line 19. Massachusetts source income accumulated for vested nonresident beneficiaries is not deductible on Line 19 however, but is taxable at the fiduciary level.

Please note: amounts actually paid to vested nonresident beneficiaries and or charities are not reportable on Line 19. Rather, they are to be included as part of the income distribution deduction calculation and are thus reportable, as appropriate, on lines 7 through 10 of Schedule IDD, Part 2.

Enter on Line 19 the amount of Part A 5.3% income included on Line 18 accumulated or irrevocably set aside for vested nonresident beneficiaries and or charities. Do not include on Line 19 any Massachusetts source income accumulated for vested nonresident beneficiaries or any amounts actually paid to vested nonresident beneficiaries and or charities.

Line 22. Tax from Table

Based upon the amount in line 21, find the proper amount of tax in the table and enter the tax in line 22. If line 21 is greater than \$24,000, multiply the amount in line 21 by .053 and enter the result in line 22. You **must** use the tax table if line 21 is \$24,000 or less.

Line 23. Part A 12% Capital Gains

Enter amount from Schedule B, line 40. See Schedule B instructions for detailed information. Complete and enclose Schedule B.

Line 24. Part A 12% Short-Term Common Trust Fund Capital Gains

Enter the amount of Part A 12% short-term capital gains received from common trust funds.

Line 26. Income Distribution Deduction

Enter on line 26 the amount reported on line 15 of Schedule IDD, *Income Distribution Deduction*.

Guardianships/Conservatorships: Enter on line 26 deductions and exemptions claimed on behalf of a ward. Any deduction or exemption claimed must be explained via a supporting statement attached to the Form 2. The preprinted language on line 26 should be crossed out and the words "see supporting statement" should be added.

Line 28. Nonresident/Charitable Deduction

With one exception, the deductions under G.L. c. 62, § 3.A(a)(1) and (2) for Part A 12% capital gain income accumulated or irrevocably set aside for vested nonresident beneficiaries and or charities are allowed on Line 28. Massachusetts source income accumulated for vested nonresident beneficiaries is not deductible on Line 28 however, but is taxable at the fiduciary level.

Please note: amounts actually paid to vested nonresident beneficiaries and or charities are not reportable on Line 28. Rather, they are to be included as part of the income distribution deduction calculation and are thus reportable, as appropriate, on lines 12 through 15 of Schedule IDD, Part 3.

Enter on Line 28 the amount of Part A 12% capital gain income included on Line 27 accumulated or irrevocably set aside for vested nonresident beneficiaries and or charities. Do not include on Line 28 any Massachusetts source income accumulated for vested nonresident beneficiaries or any amounts actually paid to vested nonresident beneficiaries and or charities.

Line 31. Part C 5.3% Long-Term Capital Gains

Enter amount from Schedule D, line 18. See Schedule D instructions for detailed information. Complete and enclose Schedule D.

Line 32. Part C 5.3% Long-Term Common Trust Fund Capital Gains

Enter the amount of Part C 5.3% long-term capital gains received from common trust funds.

Line 34. Income Distribution Deduction

Enter on line 34 the amount reported on line 20 of Schedule IDD, *Income Distribution Deduction*.

Guardianships/Conservatorships: Enter on line 34 deductions and exemptions claimed on behalf of a ward. Any deduction or exemption claimed must be explained via a supporting statement attached to the Form 2. The preprinted language on line 34 should be crossed out and the words "see supporting statement" should be added.

Line 36. Nonresident/Charitable Deduction

With one exception, the deductions under G.L. c. 62, § 3.C(a)(1) and (2) for Part C 5.3% long-term capital gain income accumulated or irrevocably set aside for vested nonresident beneficiaries and or charities are allowed on Line 36. Massachusetts source income accumulated for vested nonresident beneficiaries is not deductible on Line 36 however, but is taxable at the fiduciary level.

Please note: amounts actually paid to vested nonresident beneficiaries and or charities are not reportable on Line 36. Rather, they are to be included as part of the income distribution deduction calculation and are thus reportable, as appropriate, on lines 17 through 20 of Schedule IDD, Part 4.

Enter on Line 36 the amount of Part C 5.3% long-term capital gain income included on Line 35 accumulated or irrevocably set aside for vested nonresident beneficiaries and or charities. Do not include on Line 36 any Massachusetts source income accumulated for vested nonresident beneficiaries or any amounts actually paid to vested nonresident beneficiaries and or charities.

Line 39. Credit Recapture

If any Brownfields Credit, Economic Opportunity Area Credit, or Low-Income Housing Credit property is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the total credit allowed for actual use must be added back to the tax on Form 2. Complete and enclose Schedule H-2, *Credit Recapture*.

Line 41. Credit for Income Taxes Paid to Other Jurisdictions

Please Note: This credit is available to resident beneficiaries and to resident estates and trusts. It is not available to pooled income funds, charitable remainder annuity trusts, or charitable remainder unitrusts.

If all or part of the income reported on this return is subject to taxation in another state or jurisdiction and you have filed a return and paid taxes in the other state or jurisdiction, complete Schedule F, *Credit for Income Taxes Paid to Other Jurisdictions*, and enter the amount of credit allowed (from line 7 of Schedule F) on line 41 of Form 2. Do not include taxes paid to the U.S. government or local or city taxes. Enclose Schedule F. The total credit which you calculate on Schedule F is the smaller of the amount of taxes due to other jurisdictions (net of certain adjustments) or the portion of your Massachusetts tax due on your gross income that is taxed in such other jurisdictions.

Credit is not given for a property tax due to another jurisdiction on account of capital stock or property. This does not refer to a tax on gain or income from the sale of capital stock or property, as included on Schedule B or D however. Credit is also not given for any interest and penalties paid on a tax due to another jurisdiction.

Line 42. Lead Paint Credit

A credit for up to \$1,500 for each residential unit is given for expenses incurred for removing or covering lead paint on residential premises in Massachusetts. A seven-year carryover of any unused credit is provided. However, credits generated before January 1, 1994 are subject to a five-year carryover. Also, a credit is allowed for interim controls, abatement measures that have been taken pending the complete removal of lead paint, for up to \$500 per dwelling unit. This \$500 amount is counted towards the \$1,500 limit. Strict regulations govern who can cover or remove lead paint. The basic rules are explained in Massachusetts Schedule LP, *Credit for Removing or Covering Lead Paint on Residential Premises*. If you qualify for the credit, complete Massachusetts Schedule LP.

Line 43. Economic Opportunity Area Credit

Massachusetts allows a credit equal to 5% of the cost of qualifying property purchased for business use within an Economic Opportunity Area (EOA). To qualify for this credit, the property must be used exclusively in a certified project in an EOA. A certified project is a project that has been approved by the Economic Assistance Coordinating Council. Complete Schedule EOAC, *Economic Opportunity Area Credit*. See Schedule EOAC for more information.

Line 44. Full Employment Credit

Every employer who participates in the Full Employment Program and continues to employ a participant for at least one full month after any Full Employment Program subsidy for that participant has expired may claim the Full Employment Credit. A qualified employer may claim a credit equal to \$100 per month of eligible employment per participant, with a maximum credit of \$1,200 per participant. Qualified participants and employers are those who participate in the Full Employment Program under the rules of the Department of Transitional Assistance. A five-year carryover of any unused credit is allowed. If you qualify for this credit, complete Schedule FEC, *Massachusetts Full Employment Credit*.

Line 45. Brownfields Credit

Taxpayers are allowed a credit for amounts expended to rehabilitate contaminated property owned or leased for business purposes and located within an economically distressed area. In general, the credit is 25% or 50% of certain environmental response and removal costs incurred between August 1, 1998, and January 1, 2007, provided that the taxpayer commences and diligently pursues an environmental response action before August 5, 2003. The credit that may be taken in any taxable year is limited to 50% of the taxpayer's tax liability. A five-year carryover of unused credit is allowed, provided the taxpayer continues to maintain the remedies required by law. See TIRs 99-13 and 00-9 for more information. If you qualify for this credit, complete Massachusetts Schedule BC, *Brownfields Credit*.

Line 46. Low-Income Housing Credit

A low-income housing credit is available to taxpayers. The Department of Housing and Community Development will allocate the low-income housing credit from a pool of available credits granted under § 42 of the Code among qualified low-income housing projects. A taxpayer allocated a federal low-income housing credit may also be eligible for a state credit based on the credit amount allocated to a low-income housing project that the taxpayer owns. A five-year carryforward of used credit is allowed. See TIR 99-19 for more information.

Line 47. Historic Rehabilitation Credit

Effective for tax years beginning on January 1, 2005 and ending on or before December 31, 2009, taxpayers may be eligible for the Historic Rehabilitation Credit (HRC). To claim this credit, a historic rehabilitation project must be completed and certified by the Massachusetts Historical Commission. Unused portions of the credit may be carried forward for 5 years. The credit may be transferred or sold to another taxpayer. The

HRC is not subject to the 50% limitation rule for corporate taxpayers. If the taxpayer disposes of the property generating the HRC, a portion of the credit may be subject to recapture. For further information, see 830 CMR 63.38R.1, *Massachusetts Historic Rehabilitation Credit*.

Line 48. Home Energy Efficiency Credit

Recent legislation provides the owner of residential property located in Massachusetts a credit for certain energy efficient heating items purchased between November 1, 2005 and March 31, 2006 for installation in such property. Qualifying purchases include home insulation, new window installation, advanced programmable thermostats, solar hot water systems, fuel-efficient furnaces, boilers, oil, gas, propane, or electric heating systems, certain weather sealing, and other approved purchases. The credit allowed for installation of qualifying purchases in any one residential building is 30% of the cost; however, the credit cannot exceed \$600 for a residential dwelling or \$1,000 for a multi-unit dwelling. Joint owners of a residential property share any credit available to the property in the same proportion as their ownership interest. The credit allowed under this section may be taken in 2005 or 2006, regardless of the exact date on which any qualifying purchases were made. The amount of credit that exceeds the total tax due for 2005 may be carried over, as reduced, and applied against the tax liability for 2006. For more information, see TIR 05-18. If you qualify for this credit, complete Massachusetts Schedule HHFC, *Home Heating Fuel Credit*, and enter the amount of credit in line 48.

Line 51. Massachusetts Income Tax Withheld

Include on line 51 all Massachusetts income taxes withheld as indicated on your copies of Forms W-2, W-2G, and 1099-G (or 1099-R, if applicable). Be sure you attach copies of these forms to the left-hand margin of the front of your return; otherwise your claim of amounts withheld will not be allowed. If you have lost a form, ask the payer for a duplicate. Copies of Forms 1099-G and 1099-R need only be attached if they show an amount for Massachusetts tax withheld.

Line 53. 2005 Massachusetts Estimated Tax Payments

Enter the total amount of Massachusetts Form 2-ES, estimated tax payments made for 2005 on line 53. Do not include estimated tax payments made on Form 1-ES on behalf of beneficiaries or the amount in line 52.

Line 54. Payments Made with Extension

If an *Application for Extension of Time to File Fiduciary, Partnership or Corporate Trust Return*, Massachusetts Form M-8736, was made for 2005 on or before the due date of the return, enter in line 54 the amount paid with Massachusetts Form M-8736. An extension of time to file does not extend the due date for payment of the tax. Any tax not paid on or before the due date, without regard to the extension, will be charged interest. Any tax not paid within the extended period is subject to a penalty of 1/2 % per month, up to a maximum of 25% from the due date of the return.

Line 55. Payment with Original Return

Use this line only if you are amending the original return. Enter in line 55 the amount of tax you paid with the original return from line 60, "Tax Due." If estimated tax payments were made on the original return, they should be reflected on line 53, as on the original return. Select the appropriate amended return oval on page 1. Complete the entire return, correct the appropriate line(s) with the new information and recompute the tax liability. On an enclosed sheet, explain the reason for the amendment(s) and identify the line(s) and amount(s) being changed on the amended return. If the change reduces the tax liability, enclose Form CA-6, *Application for Abatement/Amended Return*, and a copy of the return that you originally filed.

Mail the amended return, with Form CA-6 on top, to:

**Massachusetts Department of Revenue
PO Box 7031
Boston, MA 02204**

If you owe additional tax, mail the amended Form 2 to:

**Massachusetts Department of Revenue
PO Box 7018
Boston, MA 02204**

Line 58. Amount of Overpayment to be Applied to 2006 Massachusetts Estimated Taxes

Enter the amount of the 2005 overpayment from line 57 that you want applied to your 2006 Massachusetts estimated taxes.

Line 59. Amount of Refund

Subtract line 58 from line 57, and enter the result in line 59. This is the amount of your refund.

Line 60. Tax Due

If line 50 is larger than line 56, subtract line 56 from line 50, and enter the result in line 60. Include in line 60 any additional payment for interest and/or penalty as described below. Pay this amount in full with the return when filed. Make the check or money order payable to the **Commonwealth of Massachusetts** and write the estate or trust employer identification number on the front of the check in the lower left front corner.

Interest. If you fail to pay the tax when due, interest will be charged. For an explanation of how interest is compounded in Massachusetts, see TIR 92-6.

Penalty for late payment. The penalty for late payment is 1/2 % of the tax due, per month (or fraction thereof) up to a maximum of 25%.

Penalty for failure to file. The penalty for failure to file a tax return by the due date is 1% of the tax due, per month (or fraction thereof) up to a maximum of 25%.

Penalty for protested ("bad") check. If your check is not honored by your bank because of insufficient funds or for any other reason, a penalty may be added equal to 2% of the amount of the check or \$10, whichever is greater (but no more than the amount of the check).

Federal (audit) change penalty. If the U.S. Internal Revenue Service changes a tax return for a prior year (generally through audit), file an amended Form 2 together with any required schedules or additional payments within one year of the final federal determination to avoid a penalty. The penalty is equal to 10% of the additional tax due or \$100, whichever is smaller. Remember to select the appropriate amended return oval on page 1 of Form 2. If the change indicates a refund, file Massachusetts Form CA-6, *Application for Abatement/Amended Return*, within one year.

Addition for underpayment of estimated tax. If withholding and/or estimated tax payments do not equal 80% of the total tax liability required to be paid, an addition to tax will generally apply, unless your 2005 tax due after credits and withholding is greater than \$400. If you failed to meet these requirements, you must complete and enclose Massachusetts Form M-2210F to calculate the amount of penalty you must add to line 60, or to show which exception applies. Most taxpayers who qualify for an exception made withholding and/or estimated payments equal to their tax liability for the previous year.

Taxpayer's Declaration

At least one of the fiduciaries must sign and date the return, under penalties of perjury. Fiduciaries using facsimile signatures **must** follow the procedures in DOR Directive 89-9. Staple all state copies of any Forms W-2, W-2G, and any 1099 with Massachusetts withholding on the front of the Form 2. If making a payment, staple your check or money order to Form 2-PV. Form 2-PV can be found on the inside front cover of this booklet. Make the check or money order payable to the **Commonwealth of Massachusetts** and be sure to sign the check. The estate or trust employer identification number should be entered on the front of the check. Enclose all required U.S. forms and schedules to the back. Please enclose Massachusetts forms and schedules first, followed by Massachusetts Form M-2210F.

This return, together with payment in full, is due, for calendar year filers on or before April 15, 2006. Fiscal year returns are due on the 15th day of the fourth month after the close of the fiscal year.

Mail to:

**Massachusetts Department of Revenue
PO Box 7018
Boston, MA 02204**

Direct fiduciary inquiries (not returns) to:

**Massachusetts Department of Revenue
Customer Service Bureau
PO Box 7010
Boston, MA 02204
Telephone: (617) 887-MDOR**

Schedule B/R. Beneficiary/Remaindermen

Name of Estate or Trust. Enter the exact legal name of the entity. If an estate or trust, refer to the governing instrument. Other fiduciaries should use the exact legal name as their appointing court ruled.

Estate or Trust Employer Identification Number. Enter the U.S. employer identification number. If you do not have one, U.S. Form SS-4, *Application for Employer Identification Number*, should be used to apply for one. If the number is not available at the time of filing, enter "applied for" and the date you applied in the boxes provided. Do **not** use a decedent's social security number for an estate. A separate Employer Identification Number is required for the estate and for each trust entity.

Name of Beneficiary. As used in this form, "beneficiary" means income beneficiary. A "trust income beneficiary" is a beneficiary who is entitled to receive the income from the trust. If filing for other than a trust, enter the name and address of the person receiving the income.

Name of Remainderman. A remainderman is the person entitled to an estate after the prior estate has expired. In returns where taxable stock dividends, taxable gains from the purchase or sale of real estate, tangible and intangible personal property, or dividends which are wholly or in part credited to capital have been received by the fiduciary during the tax year covered by this return and in all cases where all or part of the taxable income is accumulated for remainder interests, Schedule B/R must include the complete name and address of each remainderman.

Beneficiary's/Remainderman's Identification Number. Enter the social security number of the income beneficiary or remainderman.

Legal Domicile. A legal domicile is a person's permanent home. Enter the legal domicile of the income beneficiary or remainderman.

Total Income. Enter the dollar amount of the income the beneficiary or remainderman received during the tax period covered by the return.

Percentage of Income. Enter the percentage of total income that was paid to/or accumulated for each beneficiary or remainderman.

Percentage of Taxable Income. Indicate the percentage of total income taxable in Massachusetts for each beneficiary or remainderman.

Income Summary

Line 1. Accumulated Income. Enter the amount of income accumulated, i.e., retained by the entity, for the year.

Line 3. Accumulated Capital Gain. Enter the amount of capital gain accumulated, i.e., retained by the entity, for the year.

Schedule B. Interest, Dividends and Certain Capital Gains and Losses

You Must File Massachusetts Schedule B if You Have:

1. any interest income other than from Massachusetts banks taxed at 5.3%;
2. short-term capital gains or losses;
3. carryover short-term losses from prior years;
4. long-term gains on collectibles or pre-1996 installment sales classified as capital gain income for Massachusetts purposes;
5. gains or losses from the sale, exchange, or involuntary conversion of property used in a trade or business;
6. net long-term capital gains or losses; or
7. excess exemptions.

"Collectibles" are defined as any capital asset that is a collectible within the meaning of Internal Revenue Code ("Code") § 408(m), as amended and in effect for the taxable year, including works of art, rugs, antiques, metals, gems, stamps, alcoholic beverages, certain coins, and any other items treated as collectibles for federal tax purposes.

You need not fill out Massachusetts Schedule B if the only interest income you have is from Massachusetts banks; report it on Form 2, line 5 instead.

You must complete Massachusetts Schedule B if your interest or dividend income includes: dividends taxed directly to trusts or estates on a Form 2, *Fiduciary Income Tax Return*; distributions that are returns of capital; exempt portions of any interest or dividends from a mutual fund; or dividends from current earnings of a corporate trust that are taxed directly on a Form 3F, *Income Tax Return of Corporate Trust*.

Line by Line Instructions:

Name of Estate or Trust

Enter the exact legal name of the entity. If an estate or trust, refer to the governing instrument. Other fiduciaries should use the exact legal name as their appointing court ruled.

Estate or Trust Employer Identification Number

Enter the U.S. employer identification number. If you do not have one, U.S. Form SS-4, *Application for Employer Identification Number*, should be used to apply for one. If the number is not available at the time of filing, enter "applied for" and the date you applied in the boxes provided. Do **not** use a decedent's social security number for an estate. A separate Employer Identification Number is required for the estate and for each trust entity.

Line 1. Total Interest

Enter total interest from U.S. Form 1041 or 1041-QFT, line 1.

Note: Interest is "Massachusetts source income" if it is derived from or connected with a Massachusetts business activity or the ownership of Massachusetts real estate or tangible personal property. Interest from a common trust fund may be excluded here, provided it is entered on Form 2, line 15. If common trust fund interest is included in this line, enter the amount on line 7 and on Form 2, line 15.

Line 2. Total Dividends

Enter total dividends from U.S. Form 1041 or 1041-QFT, line 2a. Dividends from a common trust fund may be excluded here, provided they are entered on Form 2, line 15. If common trust fund dividends are included in this line, enter the amount on line 7 and on Form 2, line 15.

Line 3. Other Interest and Dividends

Enter on line 3 any other interest and dividends not included on lines 1 and 2. Line 3 includes such items as interest from obligations of other states and their political subdivisions that are not taxable federally but are taxable in Massachusetts. Any tax exempt municipal interest, including interest from all Massachusetts municipalities, should be entered here for Schedule H computations.

Line 4. Total Interest and Dividends

Add lines 1 through 3 and enter the total on line 4.

Line 5. Interest on U.S. Debt Obligations

Enter the total amount of U.S. government obligation interest included on line 4. Interest from obligations of the U.S. government are not taxable by the Commonwealth of Massachusetts.

Line 6. Total Interest from Massachusetts**Banks**

Enter the total amount of interest from savings in Massachusetts banks included on Form 2, line 5.

Line 7. Other Exclusions

Enter any other interest or dividends to be excluded. A schedule and statement of explanation must be enclosed. Common trust fund interest or dividends included on lines 1 or 2 must be entered here. Any tax-exempt municipal interest entered on line 3, for Schedule H computations, must be entered here.

Line 8. Total Adjustments

Add lines 5 through 7, and enter the total on line 8.

Line 9. Subtotal

Subtract line 8 from line 4, and enter the result on line 9.

Note: If there are any differences between U.S. and Massachusetts amounts reported on lines 12, 13, 14, 18, and 19, be sure to enter the Massachusetts amount and enclose a statement that includes the line item and an explanation of the differences. Exclude short-term capital gains received from common trust funds from Schedule B and enter short-term capital gains received from common trust funds on Form 2, line 24. Also, exclude short-term capital gains or losses taxed directly on Form 2, or to other fiduciaries of which this entity is a beneficiary.

Line 10. Allowable Deductions From Your Trade or Business

Enter the amount from Massachusetts Schedule C-2, line 8 if you qualify for an excess trade or business deduction. See the instructions for Massachusetts Schedule C-2.

Line 11. Subtotal

Subtract line 10 from line 9, and enter the result on line 11.

Line 12. Short-Term Capital Gains

Enter the total short-term capital gains included on U.S. Form 1041, Schedule D, Part I, lines 1, 2 and 3.

Line 13. Long-Term Capital Gains on Collectibles and Pre-1996 Installment Sales

Enter the total amount of long-term capital gains on collectibles and pre-1996 installment sales from Massachusetts Schedule D, line 11.

Line 14. Gain on Sale of Business Property

Enter from U.S. Form 4797 the amount of gain from the sale, exchange, or involuntary conversion of property used in a trade or business and held for one year or less. Be sure to enclose U.S. Form 4797 with your return.

Line 15. Gross Interest, Dividends and Certain Capital Gains

Add lines 12 through 14.

Line 16. Allowable Deductions From Your Trade or Business

Enter the amount from Massachusetts Schedule C-2, line 11 if you qualify for an excess trade or business deduction. See the instructions for Massachusetts Schedule C-2.

Line 17. Subtotal

Subtract line 16 from line 15.

Line 18. Short-Term Capital Losses

Enter the total short-term capital losses included on U.S. Form 1041, Schedule D, Part I, lines 1, 2 and 3.

Line 19. Loss on Sale of Business Property

Enter from U.S. Form 4797 the amount of loss from the sale, exchange, or involuntary conversion of property used in a trade or business and held for one year or less. Be sure to enclose U.S. Form 4797 with your return.

Line 20. Prior Years Short-Term Unused Losses

You may use short-term losses accumulated in the previous taxable years beginning after 1981 in the computation of short-term gain or loss for the current year. Enter here the short-term loss amount from your 2004 Massachusetts Schedule B, line 42.

Line 21. Subtotal

Combine lines 17 through 20. If a positive amount, omit lines 22 through 25 and go to line 26. If the total is a loss, go to line 22.

Line 22. Short-Term Capital Losses Applied Against Interest and Dividends

Enter the smaller of line 11 or line 21 (as a positive amount), but not more than \$2,000.

Line 23. Subtotal

Combine lines 21 and 22. If line 23 is less than "0", go to line 24. If line 23 is "0", omit lines 24 through 30 and go to line 31. If Schedule B, line 23 is a loss and Schedule D, line 12 is a loss, omit line 24, enter the amount from line 23 on line 25 and line 41, omit lines 26 through 30 and complete lines 31 through 39.

Line 24. Short-Term Capital Losses Applied Against Long-Term Capital Gains

If Schedule B, line 23 is a loss and Schedule D, line 12 is greater than "0," enter the smaller of Schedule B, line 23 (considered as a positive amount) or Schedule D, line 12 on Schedule B, line 24 and on Schedule D, line 13.

Line 25. Short-Term Capital Losses for Carryover in 2006

Combine lines 23 and 24 and enter the result on lines 25 and 41, omit lines 26 through 29, enter "0" on line 30, and complete lines 31 through 40.

Line 26. Short-Term Capital Gains and Long-Term Gains on Collectible

Enter the amount from Schedule B, line 21. If Schedule D, line 12 is "0", or greater, omit line 27 and enter the amount from line 26 on line 28. If Schedule D, line 12 is a loss go to Schedule B, line 27.

Line 27. Long-Term Capital Losses Applied Against Short-Term Capital Gains

If Schedule B, line 26 is greater than "0", and Schedule D, line 12 is a loss, enter the smaller of Schedule B, line 26 or Schedule D, line 12 (considered as a positive amount) on Schedule B, line 27 and on Schedule D, line 13.

Line 28. Subtotal

Subtract line 27 from line 26. If line 28 is "0," omit line 29 and enter "0" on line 30.

Line 29. Long-Term Gain Deduction

If there is no entry in line 13, enter "0." If line 13 shows a gain, enter 50% of line 13 less 50% of the losses on lines 18, 19, 20, and 27, but not less than "0."

Line 30. Short-Term Gains After Long-Term Gains Deduction

Subtract line 29 from line 28. Not less than "0."

Line 31. Subtotal

Enter the amount from line 11.

Line 32. Short-Term Losses Applied Against Interest and Dividends

Enter the amount from line 22. If line 22 is not completed, enter "0."

Line 33. Subtotal

Subtract line 32 from line 31. If Schedule D, line 14 is "0" or greater omit line 34 and enter the amount from line 33 on line 35. If Schedule D, line 14 is a loss go to line 34.

Line 34. Long-Term Losses Applied Against Interest and Dividends

If Schedule B, line 33 is a positive amount and Schedule D, line 14 is a loss, complete the Long-Term Capital Losses Applied Against Interest and Dividends Worksheet for Schedule B, line 34 and Schedule D, line 15.

Line 35. Adjusted Interest and Dividends

Subtract line 34 from line 33.

Line 36. Adjusted Gross Interest, Dividends and Certain Capital Gains

Add lines 30 and 35. Not less than "0."

Line 37. Expense and Fiduciary Compensation Deduction

Enter on 37a the allowable portion of expenses as computed on Schedule H, Part 1, line 5. Enter on 37b compensation as computed on Schedule H, Part 2, line 18. Enclose a copy of Schedule H.

Line 38. Taxable Interest, Dividends and Certain Capital Gains

Subtract line 37 from line 36. Not less than "0."

Line 39. Interest and Dividends Taxable at 5.3%

If line 38 is greater than or equal to line 11, enter the amount from line 11 here and on Form 2, line 14. If line 38 is less than line 11, enter the amount from line 38 here and on Form 2, line 14.

Line 40. Taxable 12% Capital Gains

Subtract line 39 from line 38. Not less than "0." Enter the result here and on Form 2, line 23.

Line 41. Available Short-Term Losses for Carryover in 2006

Enter the amount from line 25, only if it is a loss.

Long-Term Capital Losses Applied Against Interest and Dividends Worksheet for Schedule B, Line 34 and Schedule D, Line 15. Complete only if Schedule B, line 33 is a positive amount and Schedule D, line 14 is a loss. Enter all losses as positive amounts.

1. Enter amount from Schedule B, line 31
2. Enter the lesser of line 1 or \$2,000
3. Enter the amount from Schedule B, line 32
4. Subtract line 3 from line 2. If "0" or less omit the remainder of worksheet. Otherwise, complete lines 5 and 6
5. Enter any loss from Schedule D, line 14 as a positive amount. Otherwise, enter "0"
.....
6. If line 4 is smaller than or equal to line 5, enter line 4 here and on Schedule B, line 34 and on Schedule D, line 15. If line 4 is larger than line 5, enter line 5 here and on Schedule B, line 34 and on Schedule D, line 15

Schedule D. Capital Gains and Losses — Long-Term Capital Gains and Losses Excluding Collectibles

You must complete Massachusetts Schedule D if you had long-term capital gains or losses from the sale or exchange of capital assets or from similar transactions which are granted capital gain or loss treatment on your U.S. return or, if you had capital gain distribution. Include gains from all property, wherever located. "Long-term capital gains" are gains on the sale or exchange of capital assets that have been held for more than one year on the date of the sale or exchange. "Long-term capital losses" are losses on the sale or exchange of capital assets that have been held for more than one year on the date of the sale or exchange.

"Capital gain income" is defined as gain from the sale or exchange of a capital asset. The definition of "capital asset" includes: (1) an asset which is a capital asset under Internal Revenue Code ("Code") § 1221, or (2) property that is used in a trade or business within the meaning of Code § 1231(b), without regard to the holding period as defined in said section.

Significant Differences Between U.S. and Massachusetts Capital Gain Provisions Are:

1. Code § 1244 losses reported as ordinary losses on your U.S. return must be reported on Massachusetts Schedule D;
2. If you made a federal election under § 3181 of the Tax Relief Act of 1997 to recognize gain on the deemed sale of a capital asset held on January 1, 2001, Massachusetts does not follow the federal rules at § 311 for determining the basis of the asset. See TIR 02-3. If you sold a capital asset in 2005 for which you made a federal § 311 election, the Massachusetts initial basis will not be the federal basis. The Massachusetts initial basis will be determined as of the date the asset was first acquired;
3. Upon the sale of stock of an S corporation, the federal basis must be modified according to Massachusetts Income Tax Regulation, 830 CMR 62.17A.1;
4. Massachusetts has adopted basis adjustment rules to take into account differences between Massachusetts and federal tax laws. For more information regarding basis adjustment rules, see TIR 88-7; and
5. Net ordinary losses that are itemized deductions on U.S. Schedule A are not allowable.

Installment Sales

Effective for sales on or after January 1, 2005, taxpayers who are treated as electing installment sale treatment federally will automatically be treated as electing Massachusetts installment sale treatment if the Massachusetts gain for the entire transaction is less than \$1 million. Such taxpayers are not allowed to elect out of Massachusetts installment sales treatment and do not have to post security with the Commissioner of Revenue ("Commissioner").

In contrast to the above, taxpayers who are treated as electing installment sale treatment federally must file a separate Massachusetts installment sale election and post security with the Commissioner if their Massachusetts gain for the entire transaction is equal to or greater than \$1 million. An explanatory statement must be enclosed with each return for the life of the installment sale. For further information see TIR 04-23 or contact the Installment Sales Unit at (617) 887-6950.

Note: If you are reporting capital gains on installment sales that occurred during January 1, 1996 through December 31, 2002, do not file Schedule D. Instead, you must file Schedule D-IS, *Installment Sales*. If you are reporting an installment sale occurring on or after January 1, 2003, report those gains on Schedule D. Schedule D-IS can be obtained on DOR's website at www.mass.gov/dor.

Line by Line Instructions:**Name of Estate or Trust**

Enter the exact legal name of the entity. If an estate or trust, refer to the governing instrument. Other fiduciaries should use the exact legal name as their appointing court ruled.

Estate or Trust Employer Identification Number

Enter the U.S. employer identification number. If you do not have one, U.S. Form SS-4, *Application for Employer Identification Number*, should be used to apply for one. If the number is not available at the time of filing, enter "applied for" and the date you applied in the boxes provided. Do **not** use a decedent's social security number for an estate. A separate Employer Identification Number is required for the estate and for each trust entity.

Line 1. Long-Term Capital Gains and Losses

Enter the gain or loss included on U.S. Form 1041, Schedule D, line 6, column f.

Line 2. Additional Long-Term Capital Gains and Losses

Enter the gain or loss included on U.S. Form 1041, Schedule D, line 7, column f.

Line 3. Net Long-Term Gain or Loss from Partnerships, S Corporations, Estates, and Trusts

Enter the gain or loss included on U.S. Form 1041, Schedule D, line 8, column f.

Line 4. Capital Gain Distributions

Enter the amount of capital gain distributions reported to you by a mutual fund or real estate investment trust included on U.S. Form 1041, Schedule D, line 9, column f.

Line 5. Gain From U.S. Form 4797

Enter the gain or loss included on U.S. Form 1041, Schedule D, line 10, column f.

Line 6. Massachusetts Long-Term Capital Gains and Losses Included in U.S. Form 4797, Part II

Enter amounts included on U.S. Form 4797, Part II treated as capital gains or losses for Massachusetts purposes (not included on lines 1 through 5 above). These include ordinary gains from sales of Code § 1231 property; recapture amounts under Code §§ 1245 and 1250; Code § 1244 losses (losses on small business stock); and the loss on the sale, exchange, or involuntary conversion of property used in a trade or business.

Line 7. Carryover Losses from Previous Years

If you have a carryover loss from a prior year, enter on line 7 the amount of carryover loss from your 2004 Massachusetts Schedule D, line 28.

Line 8. Subtotal

Combine lines 1 through 7 and enter the result on line 8.

Line 9. Differences

Enter any differences between the gains or losses reportable for Massachusetts tax purposes and the U.S. gains or losses reported on Massachusetts Schedule D and U.S. Form 4797, Part II. Enter the amount of common trust fund gain included on line 8. This amount would have been carried over from your U.S. Form 1041, Schedule D, and is properly reported on Form 2, line 32. Differences include:

a. capital gains or losses that occurred while the taxpayer was legally domiciled in another state or country during the taxable year;

b. capital gains or losses from transactions reported as installment sales for U.S. income tax purposes but not for Massachusetts;

c. Massachusetts has adopted basis adjustment rules to take into account differences between Massachusetts and U.S. tax laws; and

d. Gains from pre-1996 installment sales classified as ordinary income for Massachusetts purposes and reported on Massachusetts Schedule D, line 8 should be reported on Massachusetts Schedule D, line 9 ("Differences"). The amount of such gain classified as ordinary income should then be reported on Form 2, line 6 ("Other income") and identified as "2005 gain from pre-1996 installment sale." Any entry on line 9 must be clearly explained in an enclosed statement.

Line 10. Massachusetts 2005 Gains or Losses

Exclude/subtract line 9 from line 8.

Line 11. Long-Term Gains on Collectibles and Pre-1996 Installment Sales

Enter on line 11 the amount of long-term gains on collectibles and pre-1996 installment sales classified as capital gain income for Massachusetts purposes that are included on line 10.

Gains from pre-1996 installment sales are classified as either capital gains or ordinary income under the Massachusetts law in effect on the date the sale or exchange took place. Gains from pre-1996 installment sales that are classified as capital gains should be reported as 12% income on Massachusetts Schedule B, line 13. If the asset was held for more than one year when it was sold, the gain will be eligible for a 50% long-term deduction.

Gains from pre-1996 installment sales classified as ordinary income and reported on Massachusetts Schedule D, line 8 should be reported on Massachusetts Schedule D, line 9 ("Differences"). The amount of such gain classified as ordinary income should then be reported on Form 2, line 6 ("Other income") and identified as "2005 gain from pre-1996 installment sale."

"Collectibles" are defined as any capital asset that is a collectible within the meaning of Code § 408(m), as amended and in effect for the taxable year, including works of art, rugs, antiques, metals, gems, stamps, alcoholic beverages, certain coins, and any other items treated as collectibles for federal tax purposes.

Line 12. Subtotal

Subtract line 11 from line 10 and enter the result on line 12.

If Schedule D, line 12 is a loss and Schedule B, line 23 is "0" or less, omit Schedule D, line 13 and enter the amount from Schedule D, line 12 on Schedule D, line 14 and enter "0" on Form 2, line 31.

If Schedule D, line 12 is a gain and Schedule B, line 23 is a loss, go to Schedule D, line 13.

If Schedule D, line 12 is a loss and Schedule B, line 23 is a positive amount, go to Schedule D, line 13. If Schedule D, line 12 is a gain, and Schedule B, line 23 is "0" or greater, omit Schedule D, lines 13 through 15 and enter the amount from Schedule D, line 12 on Schedule D, line 16.

Line 13. Capital Losses Applied Against Capital Gains

If Schedule D, line 12 is a positive amount and Schedule B, line 23 is a loss, enter the smaller of Schedule D, line 12 or Schedule B, line 23 (considered as positive amount) on Schedule D, line 13 and Schedule B, line 24.

If Schedule D, line 12 is a loss and Schedule B, line 26 is a positive amount, enter the smaller of Schedule D, line 12 (considered as a positive amount) or Schedule B, line 26 on Schedule D, line 13 and in Schedule B, line 27.

Line 14. Subtotal

If line 12 is less than "0," combine lines 12 and 13. If line 12 is greater than "0," subtract line 13 from line 12.

Line 15. Long-Term Capital Losses Applied Against Interest and Dividends

Complete the Long-Term Capital Losses Applied Against Interest and Dividends Worksheet for Schedule B, Line 34 and Schedule D, Line 15 only if Schedule B, line 33 is a positive amount and Schedule D, line 14 is a loss.

Line 16. Subtotal

Combine line 14 with line 15 and enter the result on line 16.

If Schedule D, line 16 is "0", enter "0" in lines 17 through 19. If Schedule D, line 16 is a loss, omit lines 17 and 18 and enter the amount from line 16 on line 19 and enter "0" on Form 2, line 31.

Line 17. Allowable Deductions From Your Trade or Business

Generally, taxpayers may not use excess 5.3% trade or business deductions to offset other income. However, Massachusetts law allows such offsets if the following requirements are met: the excess 5.3% deductions must be adjusted gross income deductions allowed under G.L. c. 62, § 2(d) and these excess deductions may only be used to offset other income which is effectively connected with the active conduct of a trade or business or any other income allowed under Code § 469(d)(1)(B) to offset losses from passive activities. Enclose Schedule C-2 with your return.

Enter on line 17 the amount from Schedule C-2, line 14.

Line 18. Subtotal

Subtract line 17 from line 16 and enter the result on line 18 and on Form 2, line 31. Not less than "0."

Line 19. Available Losses for Carryover

Enter the amount from Schedule D, line 16, only if it is a loss.

Schedule E. Rental, Royalty and REMIC Income or Loss

Enclose a copy of the U.S. Schedule E and U.S. Form 8582.

Please note: income from rental property located in or outside Massachusetts is subject to taxation on Form 2, *Fiduciary Income tax Return*, if it is accumulated for unknown or unascertained persons, or persons with uncertain interests.

For a decedent's estate, if the executor is authorized or directed in the will to occupy the decedent's realty and collect rents therefrom, or in the absence of a will, the court decree, appointing a temporary executor or administrator, authorizes the same, then to the extent of any income collected, it is reported on line 1a. Generally, the income is reported on the personal income tax return of the heir or devisee taking either title or control and possession of the property, because under Massachusetts law, title to real property vests immediately upon death in the devisees or heirs at law. However, the income is reported on Form 2 when the real estate is under administration or the person taking title or possession is the executor or administrator.

Line by Line Instructions:

Name of Estate or Trust

Enter the exact legal name of the entity. If an estate or trust, refer to the governing instrument. Other fiduciaries should use the exact legal name as their appointing court ruled.

Estate or Trust Employer Identification Number

Enter the U.S. employer identification number. If you do not have one, U.S. Form SS-4, *Application for Employer Identification Number*, should be used to apply for one. If the number is not available at the time of filing, enter "applied for" and the date you applied in the boxes provided. Do **not** use a decedent's social security number for an estate. A separate Employer Identification Number is required for the estate and for each trust entity.

Line 1a. Rental and Royalty Income or Loss

Enter on line 1a the total rental and royalty income or loss from U.S. Form 1040, Schedule E, Part I, line 26 and Part V, line 40.

Line 1b. Real Estate Mortgage Investment Conduit (REMIC) Income or Loss

Enter on line 1b the total Real Estate Mortgage Investment Conduit (REMIC) residual income or loss from U.S. Schedule E, Part IV, line 39.

Line 1. Subtotal

Combine lines 1a and 1b, and enter on line 1.

Line 2. Massachusetts Differences

Enter and explain on line 2 any differences between rental, royalty, and REMIC income reported on your U.S. return and your Massachusetts return. Possible differences include part-year resident status, trust provisions, deductible royalties from approved U.S. energy conservation patents, passive losses, and "bonus" depreciation as described below. Explain the differences in the space provided or enclose an additional sheet if necessary.

Deductible Royalties From Approved U.S. Energy Conservation Patents. Enter any income you received from certain U.S. patents that are approved by the Massachusetts Division of Energy Resources as being useful for energy conservation or for alternative energy development. For more information, contact the Division of Energy Resources at (617)727-4732. If such approved patent income is other than royalty income, use the applicable schedule and explain.

Passive Losses. As a result of differences in U.S. and Massachusetts rules in 1987, the calculations you made for passive losses on your 1987 U.S. and Massachusetts returns may have differed. Differences in amounts reported in 1987 for U.S. and Massachusetts tax purposes

should be adjusted when the property is disposed of or the deduction is used up. In addition, passive losses allowed for Massachusetts tax purposes in 1987, but carried over for U.S. tax purposes, cannot be used again for Massachusetts tax purposes when such carryover losses are eventually allowed for U.S. tax purposes.

To the extent there are applicable adjustments for Massachusetts differences, taxpayers must calculate allowable losses on a pro forma U.S. Form 8582, *Passive Activity Loss Limitations*, which should then be attached to the Form 2.

“Bonus” Depreciation. Massachusetts depreciation has been decoupled from the federal “bonus” depreciation law. Massachusetts does not adopt the special first-year depreciation allowance for certain property placed in service during the period beginning September 11, 2001 and ending December 31, 2004. The federal changes made in 2003 to Internal Revenue Code § 168(k) (Pub. L. 108-27), including extending the time period for acquisition of qualified property until December 31, 2004; increasing the depreciation allowance to 50% of the adjusted basis of the qualified property; and increasing the limitations on depreciation for luxury vehicles, are not, therefore, adopted in Massachusetts. Amendments made under the Jobs Creation Act of 2004, which extended bonus depreciation until January 1, 2006 for certain aircraft, are not adopted. For more information, see TIR 03-25, *Depreciable Business Assets, Modifications for Decoupling from Federal Bonus Depreciation*.

Line 3. Abandoned Building Renovation Deduction

In line 3 enter 10% of the costs incurred in renovating a qualifying abandoned building in an Economic Opportunity Area. For further information, contact the Massachusetts Office of Business Development at (617) 973-8600.

Line 4. Total Rental, Royalty and REMIC Income or Loss for Massachusetts

Combine lines 1, 2 and 3. Enter the total on line 4 of Schedule E and on Form 2, line 4.

Schedule F. Credit for Income Taxes Paid to Other Jurisdictions

Complete Schedule F to calculate your credit for income taxes paid by you to another state or jurisdiction on income reported on Form 2. Enclose a copy of the complete return(s) filed in the other jurisdictions.

Do not include taxes paid to the U.S. government or local or city taxes. You are allowed to claim a credit for taxes paid to the following jurisdictions: (a) other states in the U.S.; (b) any territory or dependency of the U.S. (including Puerto Rico, the Virgin Islands, Guam, the District of Columbia); or (c) the Dominion of Canada or any of its provinces (less any U.S. credit amount allowable from U.S. Form 1116).

Note: Canada is the only foreign country for which you may claim a tax credit on Schedule F. First deduct any U.S. credit amount allowable.

The total credit which you calculate on Schedule F is the smaller of the amount of taxes due to other jurisdictions (net of certain adjustments) or the portion of your Massachusetts tax due on your gross income that is taxed in such other jurisdictions.

Credit is not given for a property tax due to another jurisdiction on account of capital stock or property. This does not refer to a tax on gain or income from the sale of capital stock or property, as included on Schedule B or D. Credit is also not given for any interest and penalties paid on a tax due to another jurisdiction.

You must complete separate schedules if you had Part B 5.3% income, Part A interest (other than interest from Massachusetts banks) and dividend income, Part A 12% capital gain income, or Part C 5.3% capital gain income taxed by another jurisdiction. If you use this schedule to calculate a credit for Part A interest (other than interest from Massachusetts banks) and dividend income, Part A 12% capital gain income, or Part C 5.3% capital gain income, substitute such income for Part B 5.3% income on lines 1, 2, and 4.

You must also substitute Schedule B, line 9 and line 15 or Schedule D, line 12, but not less than "0," for Form 2, line 7 on line 2 of Schedule F, and the total of Form 2, line 16 multiplied by .053 and Form 2, line 30 or line 38 for Part B 5.3% tax on line 4 of Schedule F.

Note: When using this schedule to calculate credit for Part A interest (other than interest from Massachusetts banks) and dividend income, Part A 12% capital gain income, or Part C 5.3% capital gain income, enter in line 1 such income taxed in another jurisdiction calculated as if it was earned in Massachusetts.

Line 6. Income Tax Paid to Other Jurisdictions

Enter the total tax paid to other jurisdictions on income also reported on this return unless the tax was paid to Canada. If the tax was paid to Canada, the amount reported in this line must be reduced by the amount claimed as a foreign tax credit on U.S. Form 1041, Schedule G, line 2a. Credit is only allowable for amount of tax paid.

Form 2G. Grantor's/Owner's Share of a Grantor-Type Trust

Massachusetts follows the Internal Revenue Code ("Code") grantor-type trust rules as contained in Code §§ 671 through 678. See G.L. c. 62, § 10. Accordingly, the trustee of a grantor-type trust is required to file Form 2G and send a copy of it to the grantor/owner who is required to report the income, deductions and credits on his/her Massachusetts individual income tax return. A resident grantor or other owner must include grantor-type trust income in calculating his/her estimated tax. Generally, a grantor-type trust exists when one of the following is present:

- ☐ the trust income is distributable to/or accumulated for the benefit of the grantor or the grantor's spouse;
- ☐ the grantor holds a reversionary interest in the trust which is not postponed beyond a 10-year period;
- ☐ the grantor has the power to revoke the trust in his/her favor;
- ☐ the grantor has the power to control the beneficial enjoyment of the trust corpus or income;
- ☐ the grantor has retained certain administrative powers with respect to the trust; and
- ☐ a person, other than the grantor, has the power to obtain the trust corpus or income.

Fiduciary expenses and compensation are not deductible. All supporting details, i.e., Schedule D, if there are long-term capital gains or losses must be enclosed. **Please note:** Massachusetts has not adopted Treas. Reg. § 1.671-4(b) regarding consolidated filing of grantor-type trusts.

Nonresident Withholding

A trustee is required to deduct and withhold from any income subject to taxation (Massachusetts source income-G.L. c. 62, § 5A) at the applicable rates when the grantor or other owner is a nonresident. Form 2-ES, *Massachusetts Estimated Income Tax for Filers of Forms 2, 3F and 3M*, is to be used for this provision. The total payments withheld must be entered on line 22 of Form 2G, and the nonresident grantor or owner must claim such total paid over by the trustee on his/her individual income tax return.

Pooled Income Fund/Charitable Remainder Annuity or Unitrust Withholding

A Massachusetts trustee of a pooled income fund, Code § 664(d), who makes payment to a Massachusetts beneficiary of taxable income is required to deduct and withhold tax on that income at the applicable rates. Form 2-ES is to be used for this provision. The total payments withheld must be entered on line 22 of Form 2G, and the beneficiary must claim such total paid over by the trustee on his/her individual income tax return.

Extension of Time to File

To receive an extension of time to file, you must file Form M-8736, *Application for Extension of Time to File Fiduciary, Partnership or Corporate Trust Return*, and pay the amount of any applicable tax you expect to owe on or before the due date for filing Form 2G. Select the oval for "Other" in the "Type of Return Filed" section on Form M-8736, and insert "2G" on the line provided. The filing and approval of this form will extend the due date for six months. No extension will be granted in excess of six months for taxpayers within the United States.

Consolidated Form 2G Filing

If you are required to file more than one Form 2G, you can file on a "consolidated" basis. Use Form 2 as the coversheet for the return and select the "Consolidated Form 2G" oval on Form 2. The Form 2 signature section must also be completed and signed. Each Form 2G, or preapproved substitute, can then be enclosed with the "consolidated" Form 2 without the requirement of each Form 2G being signed. Mail the Consolidated Form 2G to the same address as Form 2G.

Due Date of Return

Form 2G is generally due on or before April 18, 2006. If filing on a fiscal year basis, the return is due on or before the 15th day of the fourth month after the close of the fiscal year. Mail Form 2G to: Massachusetts Department of Revenue, PO Box 7017, Boston, MA 02204. Direct fiduciary inquiries (not returns) to: Massachusetts Department of Revenue, Customer Service Bureau, PO Box 7010, Boston, MA 02204, and telephone (617) 887-MDOR.

Schedule H. Expenses and Fiduciary Compensation

The Schedule H deductions apply to every executor, administrator, trustee, guardian, conservator, trustee in bankruptcy or receiver of a trust or estate, with the exception of a trustee of a pooled income fund or a trustee of a charitable remainder annuity trust or unitrust.

Schedule H deductions are specifically allowed by statute and include an expense deduction and a fiduciary compensation deduction.

Expense Deduction: Fiduciaries may take an amortization deduction for premiums paid upon bonds held by the estate or trust, but only if the bond income is taxable. In addition, fiduciaries may take a deduction for a portion of their expenses for safe deposit box rentals and surety bond premiums. These expenses must have been incurred and actually paid during the tax year covered by the return in order to be allowed as a deduction.

The expense deduction must be allocated between taxable and nontaxable Part A income, and only the taxable portion is deductible. No deduction is allowed against Part B 5.3% income or Part C 5.3% Capital Gains.

The deductible portion is calculated by computing the ratio of **taxable** Part A income, over total **taxable** and **nontaxable** Part A income, from all sources.

Expenses of Trustees in Bankruptcy. Ordinary and necessary business expenses of a trustee in bankruptcy engaged in the business of managing and liquidating a bankrupt estate are deductible against Part B 5.3% income. The remainder of these expenses may be taken as an excess trade or business deduction against other income as long as such income is derived from the trustee's investment of the liquidated assets which have not yet been distributed. For more information, see LR 82-66. **Please note:** these expenses are not deductible on Schedule H. They are to be reported on Massachusetts Schedule C-2, and a copy of Massachusetts Schedules C and C-2 must be enclosed to Form 2.

Part 1. Expense Deduction Computation

Line 1. Enter on line 1a the amount actually paid during the taxable year for safe deposit box rentals and on line 1b for premiums on surety bonds. Add lines 1a and 1b, and enter the total on line 1.

Line 2. Add Schedule B, line 36 and Form 2, lines 15 and 24. This is your total taxable Part A income for the year.

Line 3. Add Schedule B, lines 4, 12, 13, 14 and Form 2, line 24. Then subtract Schedule B, line 6. This is your total Part A income (taxable and nontaxable) for the year. If common trust fund interest and dividends are not included in Schedule B, line 4, add in the amount from Form 2, line 15.

Line 4. Divide line 2 by line 3, and enter the percentage here. This is your percentage of taxable Part A income to total Part A income for the year.

Line 5. Multiply your total expenses in line 1 by the percentage in line 4, and enter the result here and on Schedule B, line 37a. This is the maximum expense deduction you are allowed against Part A income.

Part 2. Fiduciary Compensation Deduction Computation

Line 6. Enter the fiduciary compensation paid during the taxable year. **Please note:** none of the following expenses are deductible on Form 2: estate administrative expenses, executor's expenses, executor's commissions, attorney fees, accountant fees, and tax preparer fees.

Line 7. Enter here the amount from Form 2, line 7. This is your total Part B 5.3% income for the year.

Line 8. Add Schedule B, lines 4, 12, 13, 14 and Form 2, line 24. Then subtract Schedule B, line 6. This is your total Part A income (taxable and nontaxable) for the year. If common trust fund interest and dividends are not included in Schedule B, line 4, add in the amount from Form 2, line 15, but not less than 0.

Line 9. Subtract Schedule D, line 11 from Schedule D, line 8 and add Form 2, line 32, and enter the total here.

Line 10. Add lines 7 through 9, and enter the total here.

Line 11. Divide line 8 by line 10 and enter the percentage here. This is your percentage of taxable Part A income to total income (Part B 5.3% income, Part A interest, dividend, and 12% capital gain income, and Part C capital gain income) for the year.

Line 12. Multiply line 11 by line 6, and enter the result here. This represents the amount of fiduciary compensation actually paid on Part A income. Compensation paid on Part B 5.3% or Part C capital gain income is not deductible.

Line 13. Add Schedule B, line 36 and Form 2, lines 15 and 24, and enter the total here.

Line 14. Enter the amount from line 8. This is your total Part A income (taxable and nontaxable) for the year.

Line 15. Divide line 13 by line 14, and enter the percentage here. This is your percentage of taxable Part A income to total Part A income for the year.

Line 16. Multiply line 15 by line 12, and enter the total here. This represents the amount of fiduciary compensation actually paid on taxable Part A income. Compensation allocated to nontaxable Part A income is not deductible.

Line 17. Enter here 7% of line 13.

Line 18. Enter here and on Schedule B, line 37b, the amount from line 16 or 17, whichever is smaller. This is the maximum fiduciary compensation deduction you are allowed to take against Part A income.

Schedule IDD. Income Distribution Deduction

Effective for taxable years beginning on or after January 1, 2005, estate and trust income includable in the federal gross income of a beneficiary by reason of Internal Revenue Code ("Code") § 652 (the section of the Code that determines the amount and character of the gross income includable by a simple trust beneficiary) or § 662 (the section of the Code that determines the amount and character of the gross income includable by a complex trust beneficiary) is no longer taxable at the estate or trust level; rather it is to be taken into account in calculating the beneficiary's Massachusetts taxable income under G.L. c. 62, § 2.

To avoid double taxation, a trustee or other fiduciary receiving income included in the gross income of a beneficiary by reason of Code §§ 652 or 662 is allowed a deduction on Form 2 in computing the taxable income of the estate or trust for that portion of Part A, B, or C income attributable to such beneficiary. The amount deductible on Form 2, line 10 from Part B income; line 17 from part A Interest and Dividend Income; line 26 from Part A 12% Capital Gains; and line 34 from Part C 5.3% Capital Gains is to be calculated on Schedule IDD, *Income Distribution Deduction*. **Please note:** Schedule IDD does not apply when all of the income is accumulated within the estate or trust.

Also note: the taxation of grantor-type trusts, pooled income funds, charitable remainder annuity trusts, and charitable remainder unitrusts has not been affected by the above law change. The income from these entities continues to be taxed as it has been taxed in the past. Additionally, estate or trust income not includable in the federal gross income of a beneficiary by reason of the above Code sections continues to be taxable at the trust level. None of the foregoing income is subject to an income distribution deduction.

65 Day Election Rule Does Not Apply

In determining the amount paid, credited, or otherwise required to be distributed to a beneficiary (lines 3, 8, 13, and 18 of Schedule IDD), Massachusetts has not adopted the 65 day election rule available to estates and complex trusts federally under Code § 663(b). Therefore, any distribution or portion thereof to a beneficiary made within the first 65 days following the end of a taxable year treated federally as having been distributed in the prior year is not includible on Schedule IDD. Rather, it is to be treated, for Massachusetts purposes, as accumulated income and is taxable at the estate or trust level, with one exception. Non-Massachusetts source income accumulated for a vested nonresident beneficiary is not taxable at the estate or trust level, but is deductible on Form 2, lines 12, 19, 28, or 36, as applicable.

Vested Nonresidents and Charities

Income **actually paid to** vested nonresident beneficiaries and or charities is to be included as part of the income distribution deduction calculation and is reportable on Schedule IDD, as applicable. Such income is not subject to the Nonresident/Charitable Deduction and is not includible on Form 2, lines 12, 19, 28, or 36. Income **accumulated or irrevocably set aside for** vested nonresident beneficiaries and or charities, on the other hand, is not subject to an income distribution deduction and is not reportable on Schedule IDD.